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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,598	06/23/2000	Kagumi Moriwaki	018775-794	1464
21839	7590	11/22/2004	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P			WU, JINGGE	
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ALEXANDRIA, VA 22313-1404			PAPER NUMBER	

2623

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/599,598

Applicant(s)

MORIWAKI, KAGUMI

Examiner

Jingge Wu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. Applicants' response to the last Office Action, filed July 12, 2004 has been entered and made of record.

Remarks

2. Applicant's arguments with respect to claims 1-28 regarding to Inoue have been fully considered, but they are not persuasive.

a. Applicant argues that 1) Inoue does not disclose "analyzing image data to determine a scene". Rather, Inoue determines a scene by a operator. 2) Inoue determines a scene by a operator specifying a scene while the instant invention is analyzing "the image data" to determine a scene of a image, which is creating "histograms of R, G, B data, value data, or the like are prepared and the image data is divided into areas." (see page 2 of argument).

However, in response to applicant's argument, Examiner would like to point out that claim language is given its broadest reasonable interpretation. The specification is not measure of invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art. *Ir re Sporck*, 55CCPA 743, 386 F. 2d 924, 155 USPQ 687 (1968). In the instant case, first, Inoue clearly show that a scene (red fog in snow scene) is determined (specified) by a operator. The operator would analyze the image displayed in the screen to determine the scene as Applicant admitted that is likely happened in the page 2 of his argument. But Applicant argues the image is not the "image data" in the claim. However, "image data" is a general term that is not confined within the meaning of "histograms of R, G, B data, value data, or the like are

prepared and the image data is divided into areas.” as the Applicant tries to read the specification into the claim for the purpose of avoiding Inoue. In addition, the image data includes from whole image to subimages such as a scene as well as the characteristics of the image because of the general term. Thus, when an operator looks an image to determine which scene should be corrected he/she inherently analyzes the image data , e.g., color. Therefore, Inoue teaches the claim language. Furthermore, , the claim language calls for “analyzing image data to determine a scene of the image” that does not specify how to analyze, what image data needed to be analyze, and even who (a person or a computer) to analyze. Applicant’s argument fall into how and what image data to be analyzed, which is not claimed. Thus, those limitations (may be contained in the specification) can not be used for avoiding Inoue. Moreover, Inoue expressly mention image data, “an image buffer 10 for holding image data” (col. 9 lines 66-67). Finally, If Applicant intends to claim what is the image data and how to analyze the image use the image data, he should amend the claims appropriately.

b. Applicant further argues that Inoue fails to discloses a display device which displays the scene. Applicant further argues that the output image buffer 90 does not necessarily discloses claimed displaying device. (page 3 of argument).

Examiner agrees that in general, an output image buffer does not necessarily discloses claimed displaying device. However, in Inoue, the output image buffer 90 would inherently output to a displaying device because the displaying device (a CRT) is expressly taught in Inoue and no other output device disclosed in Inoue (see fig. 6, col. 10, lines 46-57). Therefore, the output image buffer inherently connected to the CRT and the displaying the corrected image is, thus, inherent.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3-6, 8-12, 14-17, 19-28 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6097836 to Inoue (a reference of record).

As to claim 10, Inoue discloses an image processing method comprising:

analyzing image data to determine a scene (e.g., red fog in snow scene) of the image (figs. 1 and 6, col. 10 lines 1-19, col. 8 line 62-col. 9, line 10, col. 13, lines 30-39, also see argument above);

displaying the scene of the image data (601) and a first correction parameter (fig. 1, correct pattern) in correspondence to the scene in a screen of a display device (col. 10 lines 1-8);

setting a second correction parameter (fig. 6, correct amount) in the screen of the display device by a user (col. 10 lines 48-57); and

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correcting image data with the first correction parameter obtained by the analysis or with the second correction parameter when the user sets the second correction parameter (col. 1 lines 1-8 and 43-57, col. 13 lines 30-39).

As to claims 1, 12 and 21, the claims are the corresponding image processor and computer readable storage medium and image processor claims to claim 10. The discussion are addressed with regard to claim 10.

As to claim 11, Inoue discloses an image processing method comprising:

analyzing image data to determine a scene (e.g., red fog in snow scene) of the image (figs. 1 and 6, col. 10 lines 1-19, col. 8 line 62-col. 9, line 10, col. 13, lines 30-39, also see argument above);

correcting image data automatically with a correction parameter in correspondence to the scene of the image data (col. 1 lines 1-8 and 43-57, col. 13 lines 30-39); and

displaying the scene of the image data in a screen after image data have been corrected (fig. 1, 90, col. 10 lines 1-15, note that the displaying is inherent because the corrected image data is sent to output image buffer and only CRT is disclosed in Inoue).

As to claims 5 and 16, the claims are the corresponding image processor and computer readable storage medium and image processor claims to claim 10. The discussion are addressed with regard to claim 10

As to claims 4, 6, and 15, Inoue further discloses the corrected image data further displayed (fig. 1, 90, col. 10 lines 1-15, note that the display is inherent because the corrected image data is sent to output image buffer, see also argument above).

As to claims 3, 8, 14, and 19, Inoue further discloses the first correction parameter in correspondence to the scene and correction parameters not correspondence to the scene are displayed in the screen (fig. 6, note that the parameter amounts are set by the user).

As to claims 22-28, Inoue further discloses one of image data is color fog, backlight etc. (fig. 1 and 5, col. 10 lines 49-53).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 7, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue in view of US 5506946 to Bar et al. (a reference of record).

As to claims 7 and 18, Inoue does not disclose the cancel function which is well known in the art.

Bar, in an analogous environment, discloses the "reset" function which cancels the setting of correction parameters (fig. 7, 732, col. 13, lines 56-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of Bar in the Inoue's system in order to easily achieve undo or cancel effects on the input correction parameters.

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As to claims 2, and 13, Inoue does not disclose setting a correction parameter as default parameter.

However, the Examiner takes Official Notice that the feature is well known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of default parameter in the Inoue's system in order to easily achieve to set the input correction parameters.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

8. Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (703) 308-9588. He can normally be reached Monday through Thursday from 8:00 am to 5:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (703) 306-0377.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amelia Au, can be reached at (703) 308-6604.

The Working Group Fax number is (703) 872-9314.

Jingge Wu

Primary Patent Examiner

